

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN E. ARNETT
CHIEF OF STAFF

117331

January 9, 2006

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Petition of Budget Phone, Incorporated for Designation as an Eligible
Telecommunications Carrier
PSC Docket No.: 2005-219-C

Enclosed for filing please find the original and fifteen (15) copies of the Motion to Hold
Petition in Abeyance for the above referenced docket. Please date stamp the one extra
copy for our office and return it to me via our courier.

Please let me know if you have any questions.

Sincerely,

Nanette S. Edwards

NSE/pjm
Enclosures

Cc: All Parties of Record

SC PUBLIC SERVICE
COMMISSION

2006 JAN -9 PM 4: 37

RECEIVED

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2005-219-C

In re: Petition of Budget Phone, Inc.)	MOTION TO HOLD
For Designation as an Eligible)	PETITION IN ABEYANCE
Telecommunications Carrier)	

The Office of Regulatory Staff (“ORS”), by its undersigned counsel and pursuant to 26 S.C. Regs. 103-840, hereby files this Motion to Hold the Petition of Budget Phone, Inc. for Designation as an Eligible Telecommunications Carrier (“ETC”) in abeyance pending a determination as to whether multiple ETC’s for one designated area should be permitted and pending adoption of a single set of eligibility standards for ETC designation. In support of this Motion, ORS respectfully states as follows:

1. On July 20, 2005, Budget Phone, Inc. (“Budget”) filed a petition for designation as an eligible telecommunications carrier (“ETC”) in the state of South Carolina pursuant to Section 214(e) (2) of the Communications Act of 1934, as amended and pursuant to Title 47 C.F.R. Sections 54.101 through 54.207. On August 16, 2005, the Commission issued a notice of filing establishing September 16, 2005, as the deadline for intervention. On September 16, 2005, the South Carolina Telephone Coalition intervened. On September 16, 2005, Budget filed a request to amend its petition to include only BellSouth and Verizon territory for ETC designation. On October 12, 2005, the Office of Regulatory Staff (“ORS”) issued data requests to Budget. On October 13, 2005, the Commission established deadlines for pre-filed testimony and set a hearing date

of January 26, 2005. On October 31, 2005, Budget responded to ORS data requests, and on November 7, 2005 submitted the pre-filed testimony of Ronald Munn, Jr.

2. ORS is a state agency charged with the duty and responsibility to “represent the public interest of South Carolina before the Commission.” S.C. Code Ann. § 58-4-10 et. seq. (Supp. 2004). It is also the duty and responsibility of ORS to “make recommendations to the commission with respect to standards, regulations, practices, or service of any public utility pursuant to the provisions” of Title 58 of the South Carolina Code S.C. Code Ann. § 58-4-50(7) (Supp. 2004). “[A]ny advice given to the Commission by [ORS] must be given in a form, forum, and manner as may lawfully be given by any other party or person.” S.C. Code Ann. § 58-4-10(c)(Supp. 2004).

3. The Federal Communications Commission (“FCC”) released its Report and Order in CC Docket 96-45 on March 17, 2005, adopting new and more rigorous minimum requirements for a telecommunications carrier to be designated as an “eligible telecommunications carrier” or “ETC,” and thus eligible to receive federal universal service support. The FCC strongly encourages state commissions that exercise jurisdiction over ETC designations pursuant to Section 214 (e)(2) of the Act to adopt these new FCC requirements when deciding whether a common carrier should be designated as an ETC.¹

4. The South Carolina Public Service Commission has not adopted the new FCC recommended standards for ETC designation as contained in the *Universal Service Order*. Indeed, Budget is the first wireline competitive local exchange carrier to seek ETC designation in the State of South Carolina, and is the first company to seek ETC

¹ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket 96-45 ¶ 1, 58-64 (rel. March 17, 2005). (“*Universal Service Order*”)

status since the issuance of the FCC's *Universal Service Order*. The South Carolina Public Service Commission has previously applied the FCC's standards for ETC designation for wireless carriers that were set forth in *Virginia Cellular* and *Highland Cellular* cases.²

5. The Universal Service Administrative Commission (USAC) has requested that certain information be included in future ETC designation orders to facilitate USAC's data validation and administration of high-cost universal service support. The FCC has agreed to include in all future ETC designations orders adopted by the FCC: (1) the name of each incumbent local exchange carrier ("ILEC") study area in which an ETC has been designated; (2) a clear statement of whether the ETC has been designated in all or part of each ILEC study area; and (3) a list of all wire centers in which the ETC has been designated, using either the wire center's common name or the Common Language Location Identification (CLLI) code. The FCC has requested that state commissions follow these same procedures in ETC orders that the state commissions adopt. Additionally, in those circumstances where supplemental filings and/or other conditions must be satisfied prior to the ETC designation becoming final, USAC requests that once those conditions have been fulfilled, the FCC or the state commission will notify USAC that the ETC designation is final.

6. ORS respectfully submits that in order to ensure that state ETC designations are consistent with the public interest and preserve the dual goals of preserving universal service and fostering competition, the South Carolina Public Service

² *In re: Application of FTC communications, Inc., d/b/a FTC Wireless for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Docket No. 2003-158-C, Order No. 2005-5 at 26 (rel. January 7, 2005) wherein the South Carolina Public Service Commission agreed that the factors delineated in the FCC's *Virginia Cellular* and *Highland Cellular* orders are appropriate considerations to determine whether the public interest is met for ETC designation.

Commission should adopt a standard set of guidelines that apply to all wireline ETC applicants for non-rural areas. ORS is concerned that without the establishment of a standard set of guidelines for ETC designation, determinations will be made on a case-by-case basis and may not be competitively neutral. The FCC noted that “a single set of guidelines will encourage states to develop a single, consistent body of eligibility standards to be applied in all cases, regardless of the characteristics of the incumbent carrier.”³ In addition to Budget’s request for ETC designation, another wireline carrier, Nexus Communications Incorporated, seeks ETC status.⁴ Thus, as more companies apply for ETC status, the adoption of a single set of guidelines will aid the Commission and ORS in the review of these applications.

WHEREFORE, ORS respectfully requests that

- (i) the Commission expeditiously set this Motion for consideration at the Commission’s next Commission meeting;
- (ii) grant the Motion and hold the Petition of Budget Phone, Inc. for Designation as an ETC in abeyance; and
- (iii) as soon as practicable, initiate a rule making proceeding to determine whether multiple ETCs should be authorized and to develop a single set of eligibility standards for ETC designation.

³ *Universal Service Order* at ¶ 59.

⁴ *In re: Petition of Nexus Communications, Incorporated for Designation as an Eligible Telecommunications Carrier*, Docket No. 2005-397-C, filed December 21, 2005.

Respectfully submitted this 9th day of January, 2006.

Nanette S. Edwards

Wendy B. Cartledge, Esq.
Nanette S. Edwards, Esq.

Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211
Ph: (803) 737- 0800
Fax: (803) 737-0895

wcartle@regstaff.sc.gov
nsedwar@regstaff.sc.gov

RECEIVED
2006 JAN -9 PM 4:38
SC PUBLIC SERVICE
COMMISSION